

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RICHARD DERR,

Plaintiff,

-against-

SCHINDLER ELEVATOR CORPORATION, et al.,
Defendants.

22-cv-06396 (JLR)

ORDER

JENNIFER L. ROCHON, United States District Judge:

Defendant removed this action from Supreme Court, County of New York on July 27, 2022. ECF No. 1. On September 26, 2022, this case was assigned to the undersigned. The parties provided a joint status report on October 11, 2022. ECF No. 7. In response to that status report, the Court asked Plaintiff to file a letter by October 26, 2022 addressing whether “there is complete diversity for purposes of the Court’s jurisdiction including, but not limited to Defendant’s claim that UNDC was fraudulently joined.” ECF No. 8. Plaintiff did not file any letter and on November 1, 2022 the Court extended Plaintiff’s deadline to respond until November 10, 2022. ECF No. 9. Plaintiff again did not respond.

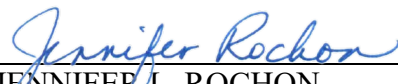
On November 14, 2022, the Court ordered Plaintiff to show cause why this action should not be dismissed for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). ECF No. 10. Plaintiff did not file any response by the December 15, 2022 order to show cause deadline. As of today’s date, Plaintiff has not responded to the Court’s order to show cause, or otherwise indicated that he intends to pursue this action.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if “the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order.” Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014).

Under Rule 41(b), a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff. *See LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Because the Court has not received any response from Plaintiff, including any indication that he intends to pursue this case, the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to terminate all pending motions and close the case.

SO ORDERED.

Dated: January 20, 2023
New York, New York



JENNIFER L. ROCHON
United States District Judge